



Update on the Sulfolane Issue at the North Pole Refinery

April 2014

On December 20, 2013 Flint Hills filed a Request for an Adjudicatory Hearing to the Department of Environmental Conservation on Sulfolane. What is an adjudicatory hearing?

An adjudicatory hearing is an administrative process within the Department of Environmental Conservation (DEC) whereby an affected party may appeal decisions made by department officials to DEC's Commissioner. The appellant submits a Request for Adjudicatory Hearing to the Commissioner, stating the reasons a hearing should be granted. Upon receiving a request, the Office of the Commissioner issues a public notice, advising the public and the involved parties that they have 20 days to respond to the appeal. The requester then has seven days to respond to any issues raised in the responses. The Commissioner then decides whether the reasons articulated in the Request merit the granting of an Adjudicatory Hearing per 18 AAC 15 (in Alaska's code of regulations). If the Commissioner concludes the Request satisfies the regulatory criteria for a hearing, he has the authority to grant the hearing, and if not, he can deny the request. The Commissioner can also remand the decision back to the division that issued it in order to answer questions, provide additional details or explain how they arrived at the decision.

Why did Flint Hills request a hearing?

Flint Hills Resources Alaska (Flint Hills) requested an adjudicatory hearing to appeal the decision that DEC's Spill Prevention and

Response Division ("the Division") made in November 2013 approving a final cleanup level for the contaminant sulfolane at the North Pole Refinery. The Division's decision selected 14 micrograms per liters, or "µg/L" (1µg/L is the same as 1 part per billion, or "ppb") as the site-specific cleanup level for sulfolane. Flint Hills believes this number is too conservative and proposes a less stringent cleanup level of 362 ug/L.

What did the Commissioner decide?

The DEC Commissioner, Larry Hartig, in his April 4, 2014 Order regarding Flint Hills' adjudicatory hearing request, vacated the SPAR Division's decision setting the groundwater alternative cleanup level for sulfolane.¹ The Commissioner remanded the cleanup level decision to the Division "for further development of the record and a decision on an approved alternative cleanup level . . ." The Commissioner is asking the Division to further consider and document the rationale, analysis, and data evaluation that leads to the Division's selection of a site-specific cleanup level for sulfolane.

In his Order, the Commissioner also made clear that he is not taking any position regarding what the final cleanup level should be for sulfolane.

What happens next?

The Division is now undertaking the detailed analysis ordered by the Commissioner. A report

¹ For the complete text of the Commissioner's decision: <http://dec.alaska.gov/commish/documents/14%20059%20Flint%20Hills%20Request%20for%20Hearing%20Decision%20April%204%202014.pdf>

containing an in-depth review of all the information and reevaluation of the cleanup level is anticipated to be delivered to the Commissioner before the end of the year. This report will document the Division's approved cleanup level for sulfolane.

When will we know more about the health effects of sulfolane?

In early 2012, the National Toxicology Program accepted sulfolane into its research program. This national program is designing and conducting new research to evaluate the health effects of exposure to sulfolane in laboratory animals. While results are not expected for a number of years (likely 3-5), this research will provide additional scientific information on the toxicity of sulfolane. Please see the "Sulfolane Investigation Update" newsletter (April 2012) at <http://dec.alaska.gov/spar/csp/sites/north-pole-refinery/docs/DEC%20Sulfolane%20newsletter%20April%202012.pdf>

Until we know more about the health effects of sulfolane, how is the public protected from potential exposure?

Flint Hills continues to provide alternative water supplies or treatment to residents whose drinking water wells are contaminated with sulfolane. In 2012, the Alaska Department of Health and Social Services (DHSS) published the "Health Consultation for Sulfolane Plume in Groundwater: Evaluation of Community Concerns about Sulfolane in Private Wells." The recommendations to the public that resulted in this evaluation are summarized at:

<http://dec.alaska.gov/spar/csp/sites/north-pole-refinery/docs/factsheets/DHSS-SulfolaneHealthRecomm.6-21-13.pdf>

For more information on the sulfolane investigation, its history, documents, maps and frequently asked questions, please see DEC's website at <http://dec.alaska.gov/spar/csp/sites/north-pole-refinery>

Or call 451-2182

Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
Contaminated Sites Program